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Barry E. Sammons, Reg. No. 25,608

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Quinn H. Hogan
Serial No.: 10/731,273
Filed: December 9, 2003
Title: Transcutaneous Electrical Nerve Locator
Attorney. Docket: 650053.91673

SUPPLEMENTAL DECLARATION OF QUINN H. HOGAN PURSUANT TO (37 CFR 1.132)

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Dear Sir:

This Declaration is a supplement to my Declaration of January 6, 2005 and is submitted to establish that the invention claimed in the above application is patentable over the cited prior art.

I, Quinn H. Hogan, declare and say that:

13. The Cory et al publication US 2002/0095080 discloses an array of electrodes that are attached to the patient over the area where a nerve is located. Low level DC currents are applied to the electrodes in this array and impedances are measured. From these measurements the precise location of the underlying nerve can be determined.

14. Cory et al do not stimulate the nerve to determine its location.

15. I cannot imagine any way the teachings of Brenman et al can be combined with Cory et al. since they are incompatible with each other at a number of levels. First, the electrodes in Brenman et al are carried by the clinician and moved over the patient. In Cory et al, the electrode array is attached to a fixed location on the patient. And secondly, Brenman et al rely on a relatively high applied current to

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stimulate the subject nerve to produce a noticeable result. It is the noticeable result which is used to determine proximity of the electrode to the nerve. In contrast, Cory et al use lower level DC currents from multiple electrodes to make measurements from which nerve location is determined.

16. The Burgio et al patent No. 5,366,489 does not disclose an electrode that could be used for locating a nerve. An instrument is disclosed having an electrode on its distal end. This instrument is placed in a subject's mouth and the electrode is pressed against the gum area where a Novocain shot is to be administered. The Burgio et al instrument does not locate a large nerve that might be a target for injection, but instead deadens minute nerves in the tissue to reduce the pain from the Novocain injection.

17. I do not see any relevance of either of the Cory et al or Burgio et al devices to my invention and the teachings of these two references is incompatible with the teachings of the Brenman et al patent..

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to me to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 6/1/05



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